

Fiscal Impact Statement

Associated with the

Notice of Intended Action

Recreational Use Assessment and Attainability Analysis Protocol
Rule 567 IAC 61.3(8)

Prepared by the

Department of Natural Resources

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Fiscal Impact Statement

Introduction: This Fiscal Impact Statement (FIS) provides the projected costs and potential benefits associated with the proposed adoption of the Recreational Use Assessment and Attainability Analysis Protocol by reference at rule 567 IAC 61.3(8). This protocol establishes the data gathering procedures appropriate to obtain sufficient data in order for the Department to make a determination of the level of recreational activity attainable in an identified stream segment.

The Department has been performing Recreational Use Assessments pursuant to a draft protocol since September of 2005 and revisions have been made to the protocol during that period. Section 455B.176A(6) of the Code of Iowa requires, in part, that the Environmental Protection commission adopt rules that establish procedures and criteria to be used in the development of a use attainability analysis. Section 455B.176A(6) became effective on July 1, 2006. A use attainability analysis is a process to determine the highest attainable use for an identified stream segment.

The need to perform use attainability analyses arises from changes to Iowa's water quality standards which became effective on March 22, 2006. One of these changes was the amendment of rule 61.3(1) which designated for primary contact recreational use all of Iowa's perennial rivers and streams and intermittent streams with perennial pools. The rule further provides that designated uses of segments may change based on a use attainability analysis.

The adoption by reference of the Recreational Use Assessment and Attainability Analysis Protocol will not have any independent fiscal impact on facilities discharging to waters of the state.

The protocol is merely a methodology for data collection. As a result of that data collection and prior rulemaking, it is likely that the majority of impacted facilities will be required to begin disinfecting their wastewater discharges. The use of the recreational use assessment and attainability analysis protocol to gather data and the completion of the resulting use attainability analysis could result in decreased costs for facilities due to the redesignation of the identified streams. It can not result in increased costs to a facility from the costs of compliance with the 2006 rule changes because those changes placed the highest available levels of protection on the impacted streams.

The Department has previously provided a fiscal impact statement addressing the likely costs of the expected disinfection requirement. This fiscal impact information remains relatively unchanged and available at the department's website at <http://www.iowadnr.com/water/standards/rulemaking.html>

It is important to note that department staff did not evaluate the specific individual impacts or treatment needs for each wastewater treatment facility noted in the August 16, 2005 FIS. Basic assumptions and evaluations were made on the general impacts on all facilities predicted to be affected. The specific individual impacts and needs will be best evaluated by the facility's staff or retained consultant. Innovative or unique treatment methods may be available to some facilities thereby reducing specific costs.

Rebuttable Presumption

Rule 567-61.3(1)“b”, effective March 22, 2006, designated all perennial rivers and streams or intermittent streams with perennial pools in Iowa as Class A1 and all of the same streams not specifically listed in the Surface Water Classification as Class B(WW-1) waters, to protect these waters for recreational and aquatic life uses. The adoption of this provision added approximately 10,000 to 14,000 miles of streams as designated streams, including stream segments downstream of all continuously discharging wastewater treatment facilities. By this designation, the numerical criteria associated with both of these designations applied at all specified stream flow regimes, including the critical stream low flows ($1Q_{10}$, $7Q_{10}$, and $30Q_{10}$). Since most of these stream segments will have critical low flows of zero cfs, this implies that the allowed amount or concentration of key materials that could be assimilated in the designated stream reach would be very near or equal to the numerical criteria. Thus, for wastewater treatment facilities, this would reduce the amount of treated pollutants, such as ammonia nitrogen, that would be allowed in their discharge and result in the need to provide additional treatment of key parameters, particularly ammonia nitrogen and bacteria.

Pursuant to section 455B.176A, the redesignation of streams through the amendment of rule 61.3(1)“b” can not be implemented through new permit limits until a use attainability analysis has been performed for an effected stream. The Recreational Use Assessment and Attainability Analysis Protocol provides a data collection methodology designed to facilitate these assessments.

It should be noted that the fiscal impact estimates are not solely based on designating all perennial rivers and streams or intermittent streams with perennial pools in Iowa as Class A1 and all of the same streams not specifically listed in the Surface Water Classification as Class B(WW-1) waters. The estimates also consider the results of the Use Assessments/Use Attainability Analyses (UA/UAA) that will be conducted on these waters to determine the most appropriate use designation. However, the Department is anticipating that some form of Class B aquatic life use designation and Class A recreational use will remain for most of these streams after these UA/UAA's are complete. The impact of this proposed rule is realized through establishing the appropriate aquatic life and recreational use designations for Iowa's perennial rivers and streams or intermittent streams with perennial pools based on guidance from EPA, not necessarily the establishment of a rebuttable presumption of uses for Iowa's waters.

Summary

The projected fiscal impact to municipal, industrial and semipublic wastewater treatment facilities from the 2006 rule-making in regard to the application of recreational use protections was projected to be approximately \$61,650,000. **This fiscal impact estimate is relatively unaffected by the current proposed adoption of the Recreational Use Assessment and Attainability Analysis Protocol.**